REMARKS

Reconsideration of the application as amended is respectfully requested. In the Office Action, the Examiner rejected claims 10-12 and 26-33. By the present Response, Applicants have amended claims 26, and 28-33 and added new claims 34-44. Applicants respectfully assert that no new matter has been added. Upon entry of the amendments, claims 10-12 and 26-44 will be pending in the present application. In view of the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 10-12 and 26-32 under 35 U.S.C. § 102(b) and (e) as anticipated by various references. However, as discussed below, Applicants respectfully assert that the pending claims, as amended, are not anticipated. In particular, the Chiou reference (U.S. Patent No. 5,828,553; hereinafter "Chiou") does not disclose all of the features recited in the instant claims. Furthermore, the claimed invention antedates the first Chen reference (U.S. Patent No. 6,421,242; hereinafter "Chen, '242") and the second Chen Reference (U.S. Patent No. 6,665,177; hereinafter "Chen, '177") relied upon by the Examiner.

Legal Precedent

First, Applicants respectfully remind the Examiner that, during patent examination, the pending claims must be given an interpretation that is reasonable and consistent with the specification. *See In re Prater*, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969); *see also In re Morris,* 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); M.P.E.P. §§ 608.01(o) and 2111. In other words, "[c]laims are not to be read in a vacuum, and limitations there are to be interpreted in light of the specification in giving them 'their broadest reasonable interpretation.'" *In re Marosi*, 218 U.S.P.Q. 289, 292 (Fed. Cir. 1983) (emphasis on original). Moreover, interpretation of the claims must also be

consistent with the interpretation that those skilled in the art would reach. *See In re Cortright*, 49 U.S.P.Q2d 1464, 1468 (Fed. Cir. 1999); *see also* M.P.E.P. § 2111

Secondly, Applicants respectfully emphasize that anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985). To maintain a proper rejection under Section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). The prior art reference also must show the *identical* invention "*in as complete detail as contained in the ... claim*" to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

First and Second Section 102 Rejections

In the Office Action, the Examiner rejected claims 10-12 under 35 U.S.C. § 102(e) as being clearly anticipated by Chen, '242. The Examiner also rejected claims 26, 27, 29, 30, 32, and 33 under 35 U.S.C. § 102(e) as being clearly anticipated by Chen, '177. Applicants respectfully traverse both rejections. In short, Applicants respectfully assert that the submitted Rule 131 Declarations and their corresponding exhibit establish, with a sufficient showing of facts, that the presently claimed subject matter was *conceived and reduced to practice prior to* the earliest possible effective dates of Chen, '242 and Chen, '177, which, as discussed further below, are July 20, 2001, and September 12, 2001, respectively. Thus, Applicants antedate both Chen, '242 and Chen, '177. Accordingly, Applicants respectfully request both Chen, '242 and Chen, '177 be removed from consideration.

Legal Requirements for a Rule 131 Declaration

To establish prior invention, an applicant must present a "showing of facts [that] shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application." 37 C.F.R. § 1.131(b). Thus, an applicant can antedate a cited reference by demonstrating an actual reduction to practice prior to the earliest possible effective date of the cited reference, and this demonstration stands on its own. To establish actual reduction to practice of the claimed invention, an applicant must show that the apparatus actually existed and worked for its intended purpose. See M.P.E.P. § 715.07(III). However, the Federal Circuit acknowledges that there are some devices so simple that a mere construction of them is all that is necessary to constitute reduction to practice. *See In re Ashai/America Inc.*, 637 U.S.P.Q.2d 1204, 1206 (Fed. Cir. 1995).

Furthermore, with respect to the required "facts," the M.P.E.P. states that "when reviewing a 37 C.F.R. 1.131 affidavit or declaration, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits, records and 'notes.'" *See* M.P.E.P. § 715.07(I). Moreover, "an accompanying exhibit need not support all of the claimed limitations but rather a missing feature may be supplied by the declaration itself." *Ex parte Ovshinsky*, 10 U.S.P.Q.2d 1075, 1077 (PTO Bd. App. 1989) (citing *Ex parte Swaney*, 89 U.S.P.Q. 618 (PTO Bd. App. 1950)). Indeed, "it is entirely appropriate for [an applicant] to rely on a showing of facts set forth in the Rule 131 declarations themselves to establish conception of the invention prior to the effective date of the reference." *Id.*

Earliest Effective Date of Chen, '242

Chen, '242, on its face, presents a filing date of July 20, 2001, and has no claim of priority. *See* Chen, '242, p. 1. Accordingly, the earliest possible effective date of Chen, '242 is this July 20, 2001, filing date.

Earliest Effective Date of Chen, '177

Chen, '177, on its face, presents a filing date of September 12, 2001, and has no claim of priority. *See* Chen, '177, p. 1. Accordingly, the earliest possible effective date of Chen, '177 is this September 12, 2001, filing date.

The Claimed Subject Matter Antedates Chen, '242 and Chen, '177

As provided in Paragraph 3 of the Declarations of Gregory C. Franke, Donald J. Hall, and Jeffrey A. Lambert (hereinafter "the Franke et al. Declarations"), inventors of record Gregory C. Franke, Donald J. Hall, and Jeffrey A. Lambert declare that the claimed subject matter of the above-referenced patent application was conceived prior to July 20, 2001, the earliest possible effective date of Chen, '242, which is earlier than the earliest possible effective date of Chen, '177. This conception is evidenced by a copy of a photograph of a clip as recited in the pending claims, which was actually reduced to practice prior to July 20, 2001, and is labeled Exhibit "A."

As indicated by paragraph 4 of the Franke et al. Declarations, Gregory C. Franke, Donald J. Hall, and Jeffrey A. Lambert, inventors of record, declare that the invention disclosed and presently claimed in the instant application was actually reduced to practice prior to July 20, 2001. As noted above, this reduction to practice is evidenced by Exhibit "A."

In view of the foregoing remarks, the accompanying Declaration, and the

supporting exhibit submitted herewith, Applicants respectfully request that the Examiner remove Chen, '242 and Chen, '177 from consideration and allow claims 10-12, 26, 27, 29, 30, 32, and 33.

Third Section 102 rejection

In the Office Action, the Examiner rejected claims 10-12 and 26-32 under 35 U.S.C. 102(b) as anticipated by Chiou. In rejecting these claims, the Examiner stated:

> Claims 10-12, 26-32 are rejected under 35. U.S.C. 102(b) as being clearly anticipated by Chiou, 5828553. Chiou discloses a heat sink retaining clip (figure 1) designed to secure a heat sink to a heat sink retainer comprising:
>
> - A body portion (3)
> - A first retaining arm (21) having a first window cutout (211)
> - A second retaining arm (11) having a second window cutout (111)
> - A disengagement arm (12)
> - A cam arm (4) having a lock (411)
> - Two runners (411)
>
> Office Action mailed April 27, 2005, p. 3.

Applicants respectfully assert that the subject matter of claim 10 is not disclosed by Chiou. In particular, Chiou appears to disclose a clip in which a lever 4 is turned from a horizontal position to a vertical position so that the clip is, respectively, tightened or loosened. For example, Chiou discloses a fastener which is loosened and removed "simply by turning the lever 4 from the horizontal position . . . to the vertical position." *See* Chiou, col. 2, lines 28-52; FIGS. 3-4. Conversely, the claimed subject matter recites a disengaging member disposed such that a pinching force may be applied to a

disengaging member and a rotatable arm, in an unlocked position, to achieve separation of the retaining arms so that the clip can be removed.

With regard to independent claim 26, Applicants have amended claim 26 to clarify the intended subject matter. Applicants respectfully assert that the subject matter of claim 26, as amended, is not disclosed by Chiou. In particular, Chiou appears to disclose a clip in which a body portion is curved. *See* Chiou, col. 2, lines 60-65; FIGS. 1-2. Indeed, the aspect of the Chiou reference relied upon by the Examiner as corresponding to the recited substantially linear clip body is described as "curved stretcher 3." Conversely, the claimed subject matter recites a clip body that is substantially linear.

Thus, Applicants respectfully assert that Chiou does not disclose all of the features recited in independent claims 10 and 26 or dependent claims 11-12 and 27-32. Accordingly, Applicants respectfully assert that no *prima facie* case of anticipation exists with regard to independent claims 10 and 26 or dependent claims 11-12 and 27-32. With the foregoing in mind, Applicants respectfully request reconsideration and allowance of claims 10-12 and 26-32.

New Claims

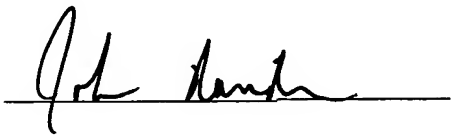
As noted above, Applicants add new claims 34-44 to clarify certain aspects of the claimed subject matter. Respectfully, Applicants assert that the cited references do not anticipate these new claims. Therefore, Applicants respectfully request allowance of new claims 34-44. New independent claim 34 recites features similar to those recited in previously presented claim 33, which the Examiner did not indicate as present in the Chiou reference. Likewise, new independent claims 38 and 41 recite features the Examiner did not indicate as present in the Chiou reference.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: July 27, 2005



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